REMARKS/ARGUMENT

This amendment responds to the Office Action of September 4, 2002, in accordance with 37 C.F.R. § 1.111.

Claims 16 and 33 were cancelled by the applicants in their Amendment/Submission of August 6, 2001. Claim 36 was added by the Second Preliminary Amendment of August 6, 2001.

Claims 1 through 15, 17 through 32, and 34 through 36 are pending in the application. Claims 2 through 5 are withdrawn from consideration. Claim 1 is amended.

The Examiner upholds the restriction requirement. The applicants request reconsideration for the reasons previously presented.

The Examiner objects to claim 33. Claim 33 was previously cancelled as explained above.

The Examiner objects to claims 6 through 35 as being in improper multiple-dependent form. The applicants' Amendment/Submission of August 6, 2001, removed all multiple dependent language in claims 4 through 15, 17 through 31, 34, and 35. The objection to these claims and the refusal to examine these claims are improper. The applicants request an acknowledgment and/or a new non-final Office Action reporting the receipt of the August 6, 2001, Amendment/Submission and the examination of these claims.

The Examiner rejects claim 1 as being improperly directed to a misjoinder of inventions and states that the claim would be allowable if it is amended to the elected invention. The applicants present amended claim 1 for this purpose.

The claim is amended to encompass all covered, elected species that perform similarly to the elected preferred compound 4 of Table 1 of the application. This amendment is supported by the applicants' Test Examples that demonstrate the

biological activity of the compounds as fungicides. These compounds form the "family" of compounds encompassed by the amended claim. The applicants are entitled to the elected sub-genus claim upon a finding of patentability for the elected species.

The applicants' amendment to claim the elected sub-species is not intended to prejudice their right to claim additional compounds in subsequent continuation and/or divisional applications. This rejection should be withdrawn.

The applicants believe that the application is in condition for allowance. Favorable consideration is requested.

Respectfully submitted,

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APPENDIX A

"CLEAN" VERSION OF EACH PARAGRAPH/SECTION/CLAIM
37 C.F.R. § 1.121(b)(ii) AND (c)(i)

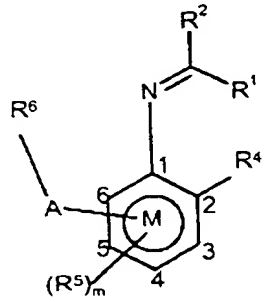
IN THE CLAIMS:

Please cancel claims 16 and 33 without prejudice.

Please enter the following amendments to claim 1:

1. (Amended) A compound of general formula I and salts thereof as fungicides

A2



(I)

wherein

- R^1 and R^2, which may be the same or different, are chosen from among alkyl, carbocyclyl, heterocyclyl, each of which may be substituted, and hydrogen;
- R^4 is chosen from among alkyl, hydroxy, and halogen;
- m is 0 to 3;
- when present R^5, which may be the same or different to any other R^5, is any group defined for R^4;
- R^6 is optionally substituted carbo- or heterocyclyl; and
- A is a direct bond or -O-.

APPENDIX B

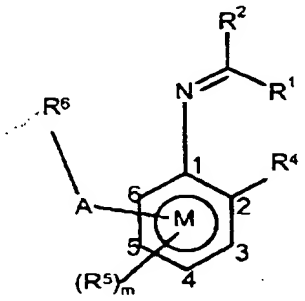
VERSION WITH MARKINGS TO SHOW CHANGES MADE
37 C.F.R. § 1.121(b)(iii) AND (c)(ii)

IN THE CLAIMS:

Please cancel claims 16 and 33 without prejudice.

Please enter the following amendments to claim 1:

1. (Amended) A compound of general formula I and salts thereof as fungicides



(I)

wherein

- R^1 and R^2, which may be the same or different, are chosen from among alkyl, [acyl, cyano, alkoxycarbonyl, aminocarbonyl, alkenyl, alkynyl,] carbocyclyl, heterocyclyl, each of which may be substituted, and hydrogen; [or
- R^2 and R^1, together with their interconnecting atoms may form a ring, which may be substituted;]
- R^4 is chosen from among alkyl, [alkenyl, alkynyl, carbocyclyl, heterocyclyl, each of which may be substituted; hydroxy; mercapto; azido; nitro;] <u>hydroxy, and</u> halogen;[cyano; acyl; optionally substituted amino; cyanato;

thiocyanato; $-SF_5$; $-OR^a$; $-SR^a$ and $-Si(R^a)_3$, where R^a is alkyl, alkenyl, alkynyl, acyl, carbocyclyl or heterocyclyl, each of which may be substituted;]

- m is 0 to 3;
- when present R^5, which may be the same or different to any other R^5, is any group defined for R^4;
- R^6 is optionally substituted carbo- or heterocyclyl; and
- A is a direct [bond, -O-,] bond or -O-[$-S(O)_n-$, $-NR^9-$, $-CR^7=CR^7-$, $-C\equiv C-$, $-A^1-$, $-A^1-A^1-$,
$-O-(A^1)_k-O-$, $-O-(A^1)_k-$, $-A^3-$, $-A^4-$, $-A^1O-$, $-A^1S(O)_n-$, $-A^2-$, $-OA^2-$, $-NR^9A^2-$,
$-OA^2-A^1-$, $-OA^2-C(R^7)=C(R^8)-$, $-S(O)_nA^1-$, $-A^1-A^4-$,
$-A^1-A^4-C(R^8)=N-N=CR^8-$,
$-A^1-A^4-C(R^8)=N-X^2-X^3-$, $-A^1-A^4-A^3-$, $-A^1-A^4-N(R^9)-$, $-A^1-A^4-X-CH_2-$,
$-A^1-A^4-A^1-$,
$-A^1-A^4-CH_2X-$, $-A^1-A^4-C(R^8)=N-X^2-X^3-X^1-$, $-A^1-X-C(R^8)=N-$,
$-A^1-X-C(R^8)=N-N=CR^8-$, $-A^1-X-C(R^8)=N-N(R^9)-$, $-A^1-X-A^2-X^1-$,
$-A^1-O-A^3-$, $-A^1-O-C(R^7)=C(R^8)-$, $-A^1-O-N(R^9)-A^2-N(R^9)-$, $-A^1-O-N(R^9)-A^2-$,
$-A^1-N(R^9)-A^2-N(R^9)-$, $-A^1-N(R^9)-A^2-$,
$-A^1-N(R^9)-N=C(R^8)-$, $-A^3-A^1-$, $-A^4-A^3-$, $-A^2-NR^9-$, $-A^1-A^2-X^1-$, $-A^1-A^1-A^2-X^1-$,
$-O-A^2-N(R^9)-A^2-$, $-CR^7=CR^7-A^2-X^1-$, $-C\equiv C-A^2-X^1-$, $-N=C(R^8)-A^2-X^1-$,
$-C(R^8)=N-N=C(R^8)-$, $-C(R^8)=N-N(R^9)-$, $-(CH_2)_2-O-N=C(R^8)-$ ou
$-X-A^2-N(R^9)-$

where:

- n is 0, 1 or 2,
- k is 1 to 9,
- A^1 is $-CHR^7-$,
- A^2 is $-C(=X)-$,
- A^3 is $-C(R^8)=N-O-$,

- A^4 is -O-N=C(R^8)-,
- X is O or S,
- X^1 is O, S, NR^9 or a direct bond,
- X^2 is O, NR^9 or a direct bond,
- X^3 is hydrogen, -C(=O)-, -SO_2- or a direct bond,
- R^7, which may be the same or different to any other R^7, is alkyl, alkenyl, alkynyl, cyano, acyl, hydroxy, alkoxy, haloalkoxy, alkythio, cycloalkyl or phenyl, each of which may be substituted; or is hydrogen or halogen;
- R^8, which may be the same or different to any other R^8, is alkyl, alkenyl, alkynyl, alkoxy, alkylthio, carbo- or hetero-cyclyl, each of which may be substituted; or is hydrogen;
- R^9, which may be the same or different to any other R^9, is optionally substituted alkyl, optionally substituted carbo- or hetero-cyclyl, hydrogen or acyl; or two R^9 groups on A, together with the connecting atoms, form a 5 to 7 membered ring;

  where the moiety depicted on the right side of linkage A is attached to R^6;

  or -A-R^6 and R^5 together with benzene ring M form an optionally substituted fused ring system].